

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FUND TEXAS CHOICE, *et al.*,

§

Plaintiffs,

§

§

§

v.

§

No. 1-22-CV-859-RP

§

KEN PAXTON, in his official capacity
of Attorney General, *et al.*

§

§

§

Defendants.

§

EXHIBIT A

From: [Myers, Elizabeth G.](#)
To: [Amy Hilton](#)
Cc: [Will Wassdorf](#); [Ecklund, Jennifer R.](#); [Leslie.Dippel@traviscountytx.gov](#); [Christopher Hilton](#); [aalbright@adjtlaw.com](#); [Lowell, Allyn J.](#); [Hillier, Sadie](#); [Atkins, John P.](#); [Eric Magee](#); [Leif Olson](#)
Subject: Re: FTC v. Paxton - conference on motion for leave to appear remotely at PI hearing
Date: Friday, September 23, 2022 12:20:01 PM

Hi, Amy. Of course. I'm tied up in a meeting until about 1 but will ask someone in our team to send it over to you.

Sent from my iPhone

On Sep 23, 2022, at 11:13 AM, Amy Hilton <Amy.Hilton@oag.texas.gov> wrote:

RECEIVED FROM EXTERNAL SENDER - USE CAUTION

Hi Elizabeth,

Could you please send me a copy of the subpoena so I can see if we are authorized to accept it?

Thanks,
Amy

From: Myers, Elizabeth G. <EMYERS@thompsoncoburn.com>
Sent: Friday, September 23, 2022 9:03 AM
To: Amy Hilton <Amy.Hilton@oag.texas.gov>; Will Wassdorf <Will.Wassdorf@oag.texas.gov>
Cc: Ecklund, Jennifer R. <JEcklund@thompsoncoburn.com>; Leslie.Dippel@traviscountytx.gov; Christopher Hilton <Christopher.Hilton@oag.texas.gov>; aalbright@adjtlaw.com; Lowell, Allyn J. <ALowell@thompsoncoburn.com>; Hillier, Sadie <SHillier@thompsoncoburn.com>; Atkins, John P. <JAtkins@thompsoncoburn.com>; Eric Magee <e.magee@allison-bass.com>; Leif Olson <Leif.Olson@oag.texas.gov>
Subject: RE: FTC v. Paxton - conference on motion for leave to appear remotely at PI hearing
Importance: High

Hi, Amy –

Conferring at 9 am Sunday works for us. With respect to General Paxton, I can't tell from your response below whether he is actually going to be at the hearing in person.

We read Judge Pitman's order to require all parties to attend, but in an abundance of caution, we're going to issue a subpoena for General Paxton. I assume you'd like for us to serve that through you, but will you please confirm by noon today that you will accept service. Otherwise, we'll start the personal service process. I'd really prefer not to have to do that, of course.

And we don't believe the apex doctrine applies to this case, especially given the unique role General Paxton's own words play in threats to our clients.

Best,

Elizabeth

Elizabeth G. Myers
emyers@thompsoncoburn.com
P: 972 629 7111
F: 972 629 7171

Thompson Coburn LLP
2100 Ross Avenue Suite 3200
Dallas, TX 75201
www.thompsoncoburn.com

From: Amy Hilton <Amy.Hilton@oag.texas.gov>

Sent: Thursday, September 22, 2022 2:54 PM

To: Myers, Elizabeth G. <EMYERS@thompsoncoburn.com>; Will Wassdorf <Will.Wassdorf@oag.texas.gov>

Cc: Ecklund, Jennifer R. <JEcklund@thompsoncoburn.com>;

Leslie.Dippel@traviscountytx.gov; Christopher Hilton

<Christopher.Hilton@oag.texas.gov>; aalbright@adjtlaw.com; Lowell, Allyn J.

<ALowell@thompsoncoburn.com>; Hillier, Sadie <SHillier@thompsoncoburn.com>;

Atkins, John P. <JAtkins@thompsoncoburn.com>; Eric Magee <e.magee@allison-bass.com>; Leif Olson <Leif.Olson@oag.texas.gov>

Subject: RE: FTC v. Paxton - conference on motion for leave to appear remotely at PI hearing

RECEIVED FROM EXTERNAL SENDER - USE CAUTION

Hi Elizabeth,

Saturday at 9am works for us. The rest of our team has conflicts on Saturday, so can we plan to confer on Sunday at 9am?

As to the Attorney General, we don't believe there's been a showing that entitles plaintiffs to apex testimony.

Thanks,
Amy

From: Myers, Elizabeth G. <EMYERS@thompsoncoburn.com>
Sent: Thursday, September 22, 2022 1:39 PM
To: Amy Hilton <Amy.Hilton@oag.texas.gov>; Will Wassdorf <Will.Wassdorf@oag.texas.gov>
Cc: Ecklund, Jennifer R. <JEcklund@thompsoncoburn.com>; Leslie.Dippel@traviscountytx.gov; Christopher Hilton <Christopher.Hilton@oag.texas.gov>; aalbright@adjtlaw.com; Lowell, Allyn J. <ALowell@thompsoncoburn.com>; Hillier, Sadie <SHillier@thompsoncoburn.com>; Atkins, John P. <JAtkins@thompsoncoburn.com>; Eric Magee <e.magee@allison-bass.com>
Subject: RE: FTC v. Paxton - conference on motion for leave to appear remotely at PI hearing

Amy –

Thanks for the quick response and the courtesy on the page limits. We'll get that motion for leave filed later today.

And 2 pm Saturday to confer works well for us. Could we do the exchange of witness and exhibits lists at 9 am on Saturday instead? Our entire team is on the road tomorrow traveling back from our annual firm meeting so a deadline tomorrow is very difficult.

Finally, you'll see this on our witness list as well, of course, but we intend to call General Paxton on Tuesday. Given Judge Pitman's order that all parties appear for the hearing on Tuesday, I'm assuming I don't need to send you a subpoena, but could you please confirm that General Paxton will be at the hearing in person? I can confirm for you that all of our clients other than Dr. Moayed and Anna Rupani will appear in person on Tuesday as well. Dr. Moayed and Ms. Rupani will be available remotely, pursuant to Judge Pitman's order on our motion for leave to allow them to appear virtually.

Thanks,

Elizabeth

Elizabeth G. Myers
emyers@thompsoncoburn.com
P: 972 629 7111
F: 972 629 7171